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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,144	12/03/2005	Takanobu Nishigaki	054-602	9043
35870	7590	07/09/2009		
APEX JURIS, PLLC 12733 LAKE CITY WAY NORTHEAST SEATTLE, WA 98125			EXAMINER ROSE, ROBERT A	
			ART UNIT 3727	PAPER NUMBER
			MAIL DATE 07/09/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/559,144

**Applicant(s)**

NISHIGAKI, TAKANOBU

**Examiner**

Robert Rose

**Art Unit**

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/55/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Japan No. 61-24121 in view of Ballew, and further in view of Aksamit(US 4440045).

Japan('121) discloses a chainsaw sharpener comprising substantially all of the subject matter set forth in claim 1, except for the recitation of the wall faces having a substantial X-shape as seen in plan view. Ballew discloses a file guide having diverging walls to form a pair of opposed wall faces forming an X-shape as seen in plan view. To provide side wall faces on the lower surface of the guide body to aid in aligning the grinding tool with respect to the chain saw blade would have been obvious in view of Ballew.

Aksamit('045) discloses a chainsaw sharpener having guide wall faces which are pressed against a guide bar of the chainsaw to stabilize the sharpening tool during use. To simply extend the depending side wall faces on the chainsaw sharpening tool of Japan('121) to contact the chainsaw guide bar in order to stabilize the sharpening tool during use, for more precise sharpening of the cutting edges, would have been obvious in view of Aksamit('045).

3. Applicant's arguments filed April 17, 2009 have been fully considered but they are not persuasive. With regard to the rejection under 35 USC 103, it appears that the upper plate(11)(13) in Aksamit('045) does provide support for the sharpener. Note that

the depending walls in Aksamit('045) contact the guide bar of the chainsaw to additionally stabilize the sharpening tool, and prevent the tool from wobbling. Such stabilization of the sharpener in Japan('121) is deemed to be taught by Aksamit. Ballew was applied as before, for the teaching of providing side wall faces on the lower surface of the guide body to aid in aligning the grinding tool with respect to the chain saw blade. Applicant's new limitation in claim 1 of the wall faces pushing against the guide bar of the chainsaw, is deemed to be taught at least by Aksamit. Note that the side walls in Aksamit contact the sides of the chainsaw bar, and allow the sharpening worker to push the electric motor to apply a force to bias the wall faces against the side of the guide bar, while maintaining a predetermined orientation of the grinding tool with respect to the chainsaw tooth being sharpened.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Rose whose telephone number is (571) 272-4494. The examiner can normally be reached on Monday through Thursday, and on alternate Fridays, from 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Carter, can be reached at (571) 272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Robert Rose/  
Primary Examiner  
Art Unit 3727

Rr

July 3, 2009.